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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,142	08/06/2003	Yoshihiro Ue	01232D/LH	2383
1933	7590	02/23/2004	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			FINEMAN, LEE A	
767 THIRD AVENUE			ART UNIT	
25TH FLOOR			PAPER NUMBER	
NEW YORK, NY 10017-2023			2872	

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/636,142	Applicant(s) UE, YOSHIHIRO	
	Examiner Lee Fineman	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09836379.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/6/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada, U.S. Patent Application Publication No. US 2001/0024320 A1 in view of Tomiyama et al., U.S. Patent No. 5,521,762.

Regarding claim 1, Okada discloses a focus stabilizing apparatus (fig. 1) comprising an objective lens (8) arranged opposite to an observation sample (M); a fixing base (7 with 11, when vibration unit as shown in fig. 3 is between 7 and 8; see page 3, section [0052], lines 11-15) for fixing the objective lens; a minute movement table (12) on which the objective lens is provided and provided between the fixing base and the sample base; springs (14) situated between the fixing base and the minute movement table (fig. 3) to allow the minute movement table to be moved in an optical axis direction of the objective lens; an actuator (13) provided between the fixing base and the minute movement table to minutely displace the minute movement table in the optical axis direction of the objective lens (fig. 4)); a displacement sensor (15) for detecting a displacement amount (page 3, section [0049]) of the objective lens; and control means (16) for allowing the actuator to perform an extending/contracting operation on the basis of a detection output of the displacement sensor to control the objective lens and bring it to a just-in-focus position relative to the observation sample. Okada discloses the claimed

Art Unit: 2872

invention except for the springs being parallel springs. Tomiyama et al. teaches an objective lens holder (figs. 3 or 4) with parallel springs (60, 62, 70, 72) that allow a minute movement table (50) to be moved in an optical axis direction of the objective lens (not shown, at 100). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the springs of Okada with that of Tomiyama et al. because the springs can be efficiently manufactured from one piece to save manufacturing time as well as reduce costs (column 6, lines 31-40, Tomiyama)

Regarding claim 2, Okada further discloses a control loop for adjusting distance (page 3, section [0049]) with a memory section for storing an output of the displacement sensor corresponding to a just-in-focus state between the observation sample and a objective lens (in so far as a no vibration state (or zero state) is stored in the controller 16 when the object is in focus); a comparing section (16) for comparing an output of the displacement sensor ($p>0$) and an output of the displacement sensor stored in the memory section ($p=0$); and a control section (16) for outputting an electrical signal (s) for canceling a distance variation between the observation sample and the objective lens on the basis of a result of comparison by the comparing section (page 3, section [0049]).

Regarding claims 3, 5 and 6, Okada further discloses a sample base (2) for supporting the observation sample (M); a focus adjusting mechanism and a focus-adjusting handle (unnumbered; fig. 1) between the sample base and the fixing base.

Regarding claim 4, Okada further discloses wherein the objective lens is focused on the observation sample by the focus adjusting means (page 2, section [0037-0038], and then, the control means keeps the objective focused on the observation sample (page 3, section [0044]).

Art Unit: 2872

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kikuchi et al., U.S. Patent No. 5,007,712 discloses an objective lens with parallel spring supports. Moore, U.S. Patent No. 4,688,908 and Alexander et al., U.S. Patent No. 6,005,251 disclose using minute movement tables and parallel springs to move elements in a direction perpendicular to the optical axis.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-23124. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LAF
February 5, 2004


MARK A. ROBINSON
PRIMARY EXAMINER